IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Misc. Application No. 344 of 2006

Anwar Hussain
S/o Tassuwar Hussain & six others .....Applicants

Versus

1. State of Uttaranchal

2. Smt. Reshma B
W/o Anwar Hussain D/o Rafeek
Ahmead R/o Mahammadi Clock,
Indra Nagar Haldwani
District – Nainital .....Respondents

Sri D.S. Mehta, learned counsel for the applicants.
Sri Amit Bhatt learned A.G.A. for the State

Hon'ble J. C. S. Rawat, J.

This petition u/s 482 Cr.P.C. has been filed to quash the summoning order dated 10.11.2005 passed by Judicial Magistrate Haldwani in Criminal Case No. 2695 of 2005 and chargesheet dated 26.09.2005 in Case Crime No. 4195 of 2005 titled State Vs. Anwar Hussain and others u/s 406 I.P.C.

Brief facts for the disposal of this petition are that the respondent No. 2 lodged an F.I.R. at the police station Haldwani u/s 406 I.P.C. alleging therein that at the time of the marriage, the applicants were having *Stridhan* and it also includes the ornament of the complainant. Detail of the said ornament had been given in the F.I.R. It was further alleged in the F.I.R. that the complainant was treated cruelly in her matrimonial house. It was further alleged that the accused had snatched the *Stridhan* of the complainant and the same is in their possession and they are not returning the same to the complainant. The matter was investigated and thereafter chargesheet was submitted against the present applicants.

Heard learned counsel for the parties and perused the record.

It was contended on behalf of the learned counsel for the applicants that the respondent No. 2 also lodged the F.I.R. against the present applicants u/s 498-A, 323, 504, 506 I.P.C. and whole of the family has been implicated in this case. It was further contended that an application has been filed by the respondent No. 2 against the husband/applicant No. 1 u/s 125 of the Cr.P.C. It was further contended that the entire family has been implicated in this case and this is totally false and fictitious prosecution. The learned A.G.A. refuted the contention. Perusal of the averment made in the F.I.R. clearly reveals that the F.I.R. prima-facie discloses cognizable offence and the Investigating Officer had also opined that there is sufficient evidence against the present applicants u/s 406 I.P.C. It was further pointed out that the applicants had been falsely implicated in this case.

This court had limited jurisdiction u/s 482 Cr.P.C. This court cannot sit as a trial court and cannot take evidence in this matter. The applicants may take all the pleas which have been raised by him before the trial court during the trial. The learned counsel for the applicants could not shown me any evidence which lead to take inference that there is no prima-facie case against the present applicants.

In view of the forgoing discussion, I am of the view that the petition devoid of merit is liable to be dismissed and is dismissed accordingly.

All applications pending in this case are stand disposed of in terms of the judgment.

(J. C. S. Rawat, J.)

23rd May, 2006
Shiv